

RECEIVED
CENTRAL FAX CENTER

NOV 07 2005

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

First Named Applicant: Toyoshima)	Art Unit: 2687
)	
Serial No.: 09/972,183)	Examiner: Torres
)	
Filed: October 5, 2001)	50P4257.05
)	
For: WIRELESS MODULE SECURITY SYSTEM AND)	November 3, 2005
METHOD)	750 B STREET, Suite 3120
)	San Diego, CA 92101
)	

APPEAL BRIEF

Commissioner of Patents and Trademarks

Dear Sir:

This brief is submitted under 35 U.S.C. §134 and is in accordance with 37 C.F.R. Parts 1, 5, 10, 11, and 41, effective September 13, 2004 and published at 69 Fed. Reg. 155 (August 2004). This brief is further to Appellant's Notice of Appeal filed herewith.

Table of Contents

<u>Section</u>	<u>Title</u>	<u>Page</u>
(1)	Real Party in Interest.....	2
(2)	Related Appeals/Interferences.....	2
(3)	Status of Claims.....	2
(4)	Status of Amendments.....	2
(5)	Concise Explanation of Subject Matter in Each Independent Claim.	2
(6)	Grounds of Rejection to be Reviewed.....	3
(7)	Argument.....	3
App.A	Appealed Claims	
App.B	Evidence Appendix	
App.C	Related Proceedings Appendix	

1168-107.AP1

CASE NO.: 50P4257.05
Serial No.: 09/972,183
November 3, 2005
Page 2

PATENT
Filed: October 5, 2001

(1) Real Party in Interest

The real party in interest is Sony Corp.

(2) Related Appeals/Interferences

Appeals have been filed in related application serial nos. 09/972,781 and 09/974,724.

(3) Status of Claims

Claims 26 and 27 are pending and finally rejected, and claims 1-25 and 28 are canceled.

(4) Status of Amendments

No amendments are outstanding.

(5) Concise Explanation of Subject Matter in Each Independent Claim, with Page and Figure Nos.

As an initial matter, it is noted that according to the Patent Office, the concise explanations under this section are for Board convenience, and do not supersede what the claims actually state, 69 Fed. Reg. 155 (August 2004), see page 49976. Accordingly, nothing in this Section should be construed as an estoppel that limits the actual claim language.

Claim 26 recites a system for rendering difficult the use of a wireless module (reference numeral 100, figure 1, page 4, line 12) with an unauthorized peripheral device (150, id., line 18) which includes the wireless module. The wireless module includes a wireless transceiver (20, figure 1, page 4, line 13) and a security code (figure 2, page 5, lines 13-20). The peripheral device, which has an input device and a display,

1168-107.AP1

CASE NO.: 50P4257.05
Serial No.: 09/972,183
November 3, 2005
Page 3

PATENT
Filed: October 5, 2001

communicates with the wireless module only if a human user provides the security code to the peripheral device and the security code provided to the peripheral device matches the security code provided to the wireless module (figure 3, page 5, lines 22-30). The peripheral device is a portable computing device and the wireless module is removably engageable with the peripheral device. A server is used to deactivate the wireless module in the event that the wireless module is lost and/or stolen, page 7, lines 13-21.

The references above are incorporated herein. Claim 27 sets forth a method for ensuring that a wireless module can communicate only with authorized peripheral devices having input devices and displays, supra. The method includes storing a security code in the wireless module, supra, and removably engaging the wireless module with a peripheral device, supra. The security code is provided to the peripheral device, supra, with the method including permitting the peripheral device to access data on the wireless module only if it is determined that the security code provided to the peripheral device matches the security code provided to the wireless module, supra. The wireless module is deactivated using a server in the event that the wireless module is lost and/or stolen, supra.

(6) Grounds of Rejection to be Reviewed on Appeal

Claims 26 and 27 have been rejected under 35 U.S.C. §103 as being unpatentable over Kawashima, USPN 6,804,730 in view of Phillips, USPN 6,684,084, and Helle, USPN 6,662,023.

(7) Argument

As an initial matter, it is noted that according to the Patent Office, a new ground of rejection in an examiner's answer should be "rare", and should be levied only in response to such things as newly presented

1168-107.AP1

CASE NO.: 50P4257.05
Serial No.: 09/972,183
November 3, 2005
Page 4

PATENT
Filed: October 5, 2001

arguments by Applicant or to address a claim that the examiner previously failed to address, 69 Fed. Reg. 155 (August 2004), see, e.g., pages 49963 and 49980. Furthermore, a new ground of rejection must be approved by the Technology Center Director or designee and in any case must come accompanied with the initials of the conferees of the appeal conference, *id.*, page 49979.

Contrary to what is alleged in the Office Action, the relied-upon portion of Helle (col. 3, lines 43-55) does not deactivate anything, much less using a server. As to the first point, observe that even in the "secure" mode, the phone can call out to one other number and to emergency numbers, col. 3, lines 44 and 45. Plainly, the phone thus remains active, if of limited use. As to the second point, observe that nowhere does Helle teach using a server to place the phone in a secure mode. Instead, "the owner" does so, col. 4, line 6. "Owners" are not "servers". Presumably, the human being who places the phone in the secure mode does so by using another phone to dial the first phone's number. A phone is not a "server", see MPEP §2111.01 (claims must be construed as one of skill in the art would construe them).

Additionally, Claims 26 and 27 do not merely recite "deactivating" something in a vacuum. They explicitly require deactivating the wireless module that is used with the peripheral device. Helle, in contrast, merely places a phone in a secure mode without giving any hint whatsoever about doing something to a wireless module that might be associated with a computer, much less does Helle motivate the specific action related to the wireless module that is now recited in the claims.

Furthermore, there is no suggestion to combine the references as proposed. Simply because a reference can be modified is insufficient, see MPEP §2143.01 (citing *In re Mills*), unless the references explain why the modification is desirable. There is nothing in Helle to suggest it may be useful for the PCMCIA card of the primary reference, nor is there any suggestion in the primary reference that its

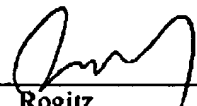
1166-107.API

CASE NO.: 50P4257.05
Serial No.: 09/972,183
November 3, 2005
Page 5

PATENT
Filed: October 5, 2001

PCMCIA card even be wireless. That the secondary reference (Phillips) teaches a wireless PCMCIA card is of no help to the *prima facie* case, because nothing in Phillips motivates one to provide security to the card, much less of the kind explicitly recited in the claims. The rejections cry out for reversal.

Respectfully submitted,



John L. Rogitz
Registration No. 33,549
Attorney of Record
750 B Street, Suite 3120
San Diego, CA 92101
Telephone: (619) 338-8075

JLR:jg

116A-107.API

CASE NO.: 50P4257.05
Serial No.: 09/972,183
November 3, 2005
Page 6

PATENT
Filed: October 5, 2001

APPENDIX A - APPEALED CLAIMS

26. A system for rendering difficult the use of a wireless module with an unauthorized peripheral device, comprising:

- at least one wireless module including a wireless transceiver, the wireless module including at least one security code;

- at least one peripheral device having an input device and a display and communicating with the wireless module only if a human user provides the security code to the peripheral device and the security code provided to the peripheral device matches the security code provided to the wireless module, the peripheral device being a portable computing device, the wireless module being removably engageable with the peripheral device; and

- using a server to deactivate the wireless module in the event that the wireless module is lost and/or stolen.

27. A method for ensuring that a wireless module can communicate only with authorized peripheral devices having input devices and displays, comprising:

- storing a security code in the wireless module;

- removably engaging the wireless module with a peripheral device;

- providing the security code to the peripheral device;

- permitting the peripheral device to access data on the wireless module only if it is determined that the security code provided to the peripheral device matches the security code provided to the wireless module; and

- deactivating the wireless module using a server in the event that the wireless module is lost and/or stolen.

1168-107,API

CASE NO.: 50P4257.05
Serial No.: 09/972,183
November 3, 2005
Page 7

PATENT
Filed: October 5, 2001

APPENDIX B - EVIDENCE

None (this sheet made necessary by 69 Fed. Reg. 155 (August 2004), page 49978.)

1166-107.AP1

CASE NO.: 50P4257.05
Serial No.: 09/972,183
November 3, 2005
Page 8

PATENT
Filed: October 5, 2001

APPENDIX C - RELATED PROCEEDINGS

None (this sheet made necessary by 69 Fed. Reg. 155 (August 2004), page 49978.)

1168-107.API